

Internal Revenue Service
District Director

Department of the Treasury
P.O. Box 2350
Los Angeles, CA 90053

Person to Contact:

Telephone Number:

Refer Reply to:

EIN:

Date: AUG. 20, 1991

Dear Sir or Madam:

We have considered your application for exemption from Federal income tax as a voluntary employees' beneficiary association described in section 501(c)(9) of the Internal Revenue Code of 1986.

We have also considered whether your organization is qualified for exemption from Federal income tax as a charitable organization described in section 501(c)(3) of the Code or as a social welfare organization described in section 501(c)(4) of the Code.

On [REDACTED], you submitted an application Form 1023 requesting recognition of exemption under section 501(c)(3) of the Code. You withdrew that application from consideration when you submitted an application Form 1024 on [REDACTED], requesting consideration under section 501(c)(9) of the Code.

The information submitted discloses that you were formed as an association on [REDACTED].

You were formed to provide an emergency fund for your members and their families in time of need. Your governing instrument does not contain a description of the benefits available to participants or the amount and duration of the benefits. Disbursement of funds to members is the responsibility of the Board of Directors of your association and requires a majority vote of the board. The amount and type of benefit is at their discretion.

Your membership consists of any [REDACTED] City employee working in the Police Department Building; membership is automatic when a person is hired as a City of [REDACTED] merit system employee. Employees meeting these criteria are the only eligible recipients of the emergency fund.

The sources of financial support for your emergency fund consist of fundraisers, contributions from the general public, and membership donations.

Code	Initiator Reviewer	Reviewer ED/DO, MR.	Reviewer ED/DO, MR.	Reviewer ED/DO, MR.	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			
Date	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			

Form 1937-A (Rev. 6-80) Correspondence Approval and Clearance

Section 501(c) of the Code describes certain organizations exempt from income tax under section 501(a) and reads, in pertinent parts, as follows:

"(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual."

"(3) Corporations, and any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office."

"(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes."

Section 1.501(c)(9)-1 of the Income Tax Regulations provides:

"To be described in section 501(c)(9), an organization must meet all of the following requirements:

- (a) The organization is an employees' association.
- (b) Membership in the association is voluntary.
- (c) The organization provides for the payment of life, sick, accident or other benefits to its members or their dependents or designated beneficiaries, and substantially all of its operations are in furtherance of providing such benefits, and
- (d) No part of the net earnings of the organization inures, other than by payment of the benefits referred to in paragraph (c) of this section, to the benefit of any private shareholder or individual."

Section 1.509(c)(9)-3(d) of the Regulations provides:

"The term 'other benefits' includes only benefits that are similar to life, sick, or accident benefits. A benefit is similar to a life, sick, or accident benefit if--

- (1) It is intended to safeguard or improve the health of a member or a member's dependents, or
- (2) It protects against a contingency that interrupts or impairs a member's earning power."

Section 1.509(c)(9)-3(e) of the Regulations provides:

"Paying vacation benefits, providing vacation facilities, reimbursing vacation expenses, and subsidizing recreational activities such as athletic leagues are considered 'other benefits'. The provision of child-care facilities for preschool and school-age dependents is also considered 'other benefits'. The provision of job readjustment allowances, income maintenance payments in the event of economic dislocation, temporary living expense loans and grants at times of disaster (such as fire or flood), supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D)(i) of the Code), severance benefits (under a severance pay plan within the meaning of 29 CFR 2510.3-2(b)) and education or training benefits or courses (such as apprentice training programs) for members, are considered 'other benefits' because they protect against a contingency that interrupts earning power [emphasis added]. Personal legal service benefits which consist of payments or credits to one or more organizations or trusts described in section 501(c)(20) are considered 'other benefits'."

Section 1.505(c)-1T, A-4, of the Regulations requires an organization described in section 501(c)(9) to submit a full description of the benefits available to its participants. The terms and conditions of eligibility for membership and benefits must be set forth in the creating document of the entity or separate documents, such as a "plan document." The benefits provided must be sufficiently described so that each benefit is definitely determinable. A benefit is definitely determinable if the amount of the benefit, its duration, and the person eligible to receive it are ascertainable from the plan document or other instrument. A benefit is not definitely determinable if the rules governing either its amount, its duration, or its recipients are not ascertainable from the plan document or other instrument but are instead subject to the discretion of a person or committee.

Section 1.501(c)(3)-1(d)(1) of the Federal Income Tax Regulations states, in part, that an organization is not organized or operated exclusively for one or more exempt purposes "unless it serves a public rather than a private interest. Thus...it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests."

Revenue Ruling 75-199, 1975-1 C.B. 160, states that an organization formed to provide sick benefits for its members and pay death benefits to the beneficiaries of members does not qualify for exemption under section 501(c)(4). A membership organization of this type is essentially a mutual benefit, self-interest type organization, benefiting private rather than public interests. Consequently, such an organization also would not qualify under section 501(c)(3).

Revenue Ruling 81-58, 1981-1 C.B. 331, provides that an organization with a primary activity to provide retirement payments to its members or death benefits to the beneficiaries of the members, is not entitled to exemption under section 501(c)(4). Although the class of employees benefited by the organization consists of police officers engaged in the performance of essential and hazardous public services and although there is an incidental benefit provided to the community at large, the primary benefits are limited to members of the organization. Therefore, the organization is not operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4).

Based on the above, we have determined that your purposes and activities are not those of an voluntary employees' beneficiary association described in section 501(c)(9) of the Code because:

1. Membership in your association is not voluntary;
2. The benefits you provide are not benefits within the purview of section 501(c)(9);
3. The benefits you provide are not fully described in your organizing or other documents; and,
4. The benefits you provide are not definitely determinable.

Therefore, we have determined that your organization is not qualified for exemption from Federal income tax as an organization described in section 501(c)(9) of the Code.

Furthermore, we have determined that you benefit private rather than public interests and therefore are not operating for one or more of the exempt purposes described in section 501(c)(3) or section 501(c)(4) of the Code. Consequently, you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) or section 501(c)(4) of the Code.

You are required to file Federal income tax returns annually with your district director.

Contributions to you are not deductible under section 170 of the Code.

As provided by section 6104(c) of the Code and the applicable regulations, the appropriate State officials are being notified of our determination.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement Form 6018, Consent to Proposed Adverse Action. Please note the instructions for signing on the reverse side of this form.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

[REDACTED]

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

District Director

Enclosures:

Publication 892

Form 6018

Self-addressed envelope

Form **6018**
(Rev. August 1983)

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare In
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

Name and Address of Organization

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)() to 501(c)(), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)(), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date